

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P.(PD).No.3309 of 2008

1.Kalliammal

2. Balakrishnan

3. Boopathy

... Petitioners

- Vs -

1. Aruchamy @ Arumugam (Deceased)

2. Menaka

3. Navamani

4. Sabitha Chandaran Investments (P) Limited,
represented by its Director,
186, ATD Street, Coimbatore-641 018.

5. Mrs.Thulassiammal

... Respondents

(R5 brought on record as LR of the
deceased R1 vide order of Court
dated 17.12.2013 made in
M.P.No.1 of 2013 in CRP No.3309 of 2008.)

Prayer : Civil Revision Petition is filed under 115 of C.P.C., against the fair and
decreetal Order dated 25.02.2008 and made in I.A.605 of 2007 in
O.S.C.F.R.No.27654 of 2007 on the file of the Principal Subordinate Court,
Coimbatore.

For Petitioners : Mr.B.Nedunchezhiyan
For Respondents 2, 3 and 5 : Mr.S.Gunalan
For 4th Respondent : No Appearance

ORDER

This memorandum of Civil Revision Petition has been directed against the fair and decreetal order dated 25.02.2008 and made in I.A.605 of 2007 in O.S.C.F.R.No.27654 of 2007 on the file of the Principal Subordinate Court, Coimbatore.

2. It is revealed from the records that originally the above said suit was presented before the District Munsif, Coimbatore and the plaint was returned on 17.06.2002 with an endorsement saying that the plaint shall have to be presented before the appropriate court on the ground of pecuniary jurisdiction. It is revealed that the plaint was presented before the principal Subordinate Court, Coimbatore, and it was once again returned for want of documents. Though the prescribed time limit was given for the submission by the learned Principal Subordinate Judge, Coimbatore, the petitioner had not represented the plaint within a time limit prescribed by the said Court, and hence there was a delay of 1468 days in representation. When an application in I.A.No.605 of 2007 was filed to condone the above said delay for the representation under Section 151 of C.P.C., that petition was dismissed. On the ground that the

reason for the delay of 1468 days was not explained in the affidavit filed by the petitioner.

3. Having been aggrieved by the impugned order dated 15.11.2006, present revision is filed.

4. Heard Mr.B.Nedunchezhiyan, learned counsel for the petitioners and Mr.S.Gunalan, learned counsel for the respondents 2, 3 and 5.

5. The learned counsel for the respondent has vehemently objected to allow the revision petition saying that no proper cause is shown to condone the delay of 1468 days and further, only for the purpose of procrastinating the proceedings, the revision petitioner had deliberately and wantonly kept quiet for 1468 days without representing the plaint. Since the suit is of the year 1997, he has urged to dismiss the revision petition.

6. On perusal of the grounds of revision, this Court is able to understand that the suit itself is not numbered. The District Munsif Court Coimbatore had returned the plaint with an endorsement saying that the plaint shall have to be presented before the appropriate court on the ground of pecuniary jurisdiction. It is apparent that the suit itself is in unnumbered stage. If the suit is numbered

we can understand that the respondent/defendant would be coming in to picture to put forth his defence. Since the suit itself is in the unnumbered stage the issue is between the Court and the plaintiff and the plaintiff is bound to explain the reason for the delay in the presentation of the plaint even after expiry of 1468 days.

7. Keeping in view of the fact and in the interest of justice, the delay of 1468 days is condoned on payment of costs of Rs.1500/- to the District Legal Services Committee, Coimbatore within a period of two weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

8. The revision petitioner is directed to represent the suit before the Subordinate Judge, Coimbatore within the specified period of two weeks from the date of receipt of a copy of this order.

23.11.2016

Index: Yes / No
Internet: Yes / No
ssn

To
The Principal Subordinate Court,
Coimbatore.

T.MATHIVANAN, J.,

ssn

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23.11.2016

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